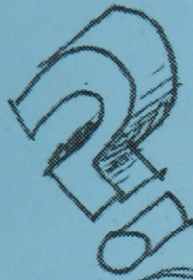


# Quid Novi

McGill University, Faculty of Law  
Volume 24, no. 14 - February 10, 2004

## Career Days at McGill Law



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A.P.



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### QUID NOVI

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Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: [quid.law@mcgill.ca](mailto:quid.law@mcgill.ca)

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:

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## Editor's Note...

Encore sous le choc de la mi-temps du SuperBowl du week-end dernier, les éditeurs du Quid ont unanimement décidé de faire relâche. Plutôt que d'écrire un éditorial, nous nous sommes ainsi tous réunis pour prier pour l'âme des Jackson du monde entier.

In fact, we were in such a state of shock last week that we forgot to print Jason Dolman and Mike Hazan's articles. We hope you will find it in your heart to forgive us in these dramatic circumstances.

These are trying times for all of us, and from all of us at the Quid, we really wish you would all hang in there.

Gees this is such a terrible pun I'm not even signing. God have mercy.



# Ruthless and Petty: Taking Stock of Canada's New Prime Minister

by Michael Rowland (Law III)

Well, it appears a new era in Canadian politics has begun, or so our new Prime Minister would have us believe. For progressive social democrats like myself however, Paul Martin's coronation and the new deal he insists will follow seem to hold little promise. You would think that yet another Liberal Prime Minister following a neo-conservative agenda would be something to which I had grown accustomed; after all, we live in a virtual one-party system. But certain of the new leader's actions have come to my attention recently, revealing what I perceive as disturbing flaws in his character. Because my concerns are too numerous to discuss in one article, I have chosen to focus on two specific themes: the way he ran his company and the way he runs his party. Perhaps I am overreacting. Perhaps I expect too much of a national leader. You be the judge.

## Canada Steamship Lines: A Company that Cares

We begin our sordid story with Canada Steamship Lines (CSL), the company Martin owned until very recently when he transferred ownership to his sons. Under Martin's leadership, CSL began to fly what is known as "flags of convenience" on many of the ships in its fleet. The basic idea is that a Canadian company registers Canadian ships under the flag of another country such as Panama (who loses more ships at sea than any other country), Bahamas (which doesn't require its ships to be double-hulled), or Cyprus (one of their ships broke in half off the coast of Newfoundland, killing 15 sailors). I'm sure you noticed a pattern emerging - flags of convenience countries are considerably less stringent with regard to safety; in fact, 44% of the world's maritime shipping losses involve ships flying these flags. As if low safety standards would not create enough incentive, these countries also offer foreign companies massive tax exemptions and have pitiful labour and environmental standards. To give you an example of how this affects workers at home and abroad, in 1988, Martin re-flagged

a ship, laid off his \$11.68 / hr. Canadian crew and replaced them with a Filipino crew working at \$1.74 / hr. Upon learning this, I couldn't help but think to myself, "Gee, this guy is all heart."

Needless to say, the bloom was already off the Martin rose when I tuned into a CBC documentary that discussed the demise of sensitive marine life. It focused on the practice of dumping excess oil into the ocean to lighten a ship's weight. (You kill a bunch of birds but you save on fuel). Much of the footage was taken from a Department of Fisheries and Oceans aircraft that caught two ships in the act of dumping off the coast of Nova Scotia. One of them was called the Atlas, a ship owned by, you guessed it, Canada Steamship Lines. Of course, it was flying a Bahamian flag and was operated by an affiliate in Britain but I think we've all figured out how this works by now. Now, before some member of the Young Liberals blasts me in next week's Quid (people seem to enjoy misquoting me with reckless abandon), I am fully aware that Martin placed CSL into a not-so-blind trust, supposedly designed to eliminate his executive role in the company. Even if this were true, he is still the beneficiary and therefore profits from this deplorable practice of dumping toxic waste. As Canada's most important legislator, he has an obligation to denounce the practice. As of yet, I have heard no such declaration. I guess Mr. Martin just believes in passing Canadian law, not following it.

## "Pass Me the Tequila, Sheila"

Anyone who remembers that quote knows where this is going. The crass joke leveled at Sheila Copps by former Cabinet Minister John Crosbie is a verse from a sexually suggestive song and was met with raucous laughter from his parliamentary colleagues. This, of course, was not an isolated incident. Crosbie also told Copps to "Quiet down, baby," during Question Period, no less. Such incidents stand as a lasting reminder of what it means to be an outspoken woman in Canadian politics. Moreover, it's the type of

crap that Copps has had to put up with for most of her political career. And it's not over yet.

Copps has once again made the same mistake she has made time and time again: she did her job. In a gallant attempt to encourage debate and maintain the democratic process, she embarked upon a futile campaign for the leadership of the Liberal party. She didn't have a snowball's chance in Hell of winning, but she ran on principle, even after all other contenders had backed out to cover their asses. A move like that requires a brand of integrity rarely seen on Parliament Hill and as most observers know, there is a protocol for dealing with highly skilled Cabinet Ministers who lose a leadership race. The classy thing to do is to appoint them to a prominent Cabinet position in the new caucus. It demonstrates that challenges to one's leadership bid should be encouraged rather than punished. This is what Chretien did when Martin lost. In fact, he gave his principle adversary the most prestigious portfolio in Cabinet. (Of course, Martin used it as a springboard to usurp the Office of the man who put him there, but that's another story). But alas, Sheila was rudely snubbed by Paul and sent to the backbenches, even though she never presented a danger to his leadership.

As if sending Sheila to the corner to think about what she had done was not enough, Paul is now trying force her out of the party completely. The boundaries of her riding have been changed and now Martin wants to run one of his new Ministers there. So, Copps must now run for her seat that she has occupied for 20 years. For those who may not know, this is a woman who has been re-elected in five successive elections, has been Minister of the Environment, Minister of Heritage and Deputy Prime Minister. Simply put, you don't ask people like that to run for their own seats. That is, unless you are trying to put them in their place.

Well, this is just my two cents, but I think the Honourable Member for Hamilton East has been told too many times exactly what ►



her place is. We may not end up putting her face on a coin, but she is arguably the most successful woman in the history of the Liberal party. As such, she represents what can be achieved by a woman in Canadian politics, a symbol of the possible to a generation of young girls. And if the "Old Boys Club" quells that hope - we will all lose.

#### Conclusion:

So what does all this say about Mr. Martin? While I'm sure he doesn't club baby seals for kicks on weekends, but his mercenary

approach to business makes him look more like a distasteful corporate stereotype than a national leader. He has demonstrated a willingness to compromise safety, labour and environmental standards for short-term profit to the detriment of his employees, their families and future generations. In short, his business dealings indicate a propensity for ruthlessness. And what of the Sheila Copps fiasco? Well, that's just good old-fashioned pettiness. Hmmm...ruthless and petty. That's a bad combination for a Prime Minister. But hey, at least Bush likes him. ■

# As Dean of McGill Law School

by Jason Dolman (Law II)

As Dean of the law school I'd speed up admissions  
And promptly deliver acceptance/rejection  
So people who want to can make their decisions  
And start heading in a specific direction.  
They hear back so soon from prospective employers  
And all of the other great schools they've applied to.  
Yet we keep them wondering if they'll be lawyers  
Or if they'll be tried and denied or be lied to.

As Dean of the law school I'd regulate weather  
Not outside, but inside the classrooms and halls  
So students can take off their fleece, shell or leather  
And study the law without frostbitten... fingers.

As Dean of the law school I'd tilt back the chairs  
To make sure that the students can sit without sliding.  
With balanced support, they'd avoid the stern glares  
From professors who watch them slouch down into hiding.

As Dean of the law school I'd take law firm money  
And put it to use making law school investments.  
The time that we've spent on debates isn't funny.  
Why turn down their money but hand out their breath mints?

As Dean of the law school, I'd want language courses  
For those who had hoped to find interesting work.  
Bilingual students are recognized forces  
But who wants to hire an Anglophone clerk?

As Dean of the law school, I'd get rid of grading  
And concentrate more on what students are writing  
So they'd worry less about where they were rating  
And understand more about what they've been citing.

As Dean of the law school, would I even care  
To do all these things I just said I would do?  
Would power corrupt? It's so hard to be fair  
When everything kind of revolves around you.

As Dean of the law school, I'd take bribes from students,  
Fill bags with tuition and send them offshore.  
I'd drive fast cars faster than you might think prudent  
And date far more women than I would have time for.  
As Dean of the law school, I'd have so much power  
That powerful leaders would do as I say.  
As Dean, I'd make changes from ivory towers.  
As Dean of the law school, I'd do it MY way. ■

## Beyond the Ballot Box:

*Engaging Young Canadians in the  
National Conversation*

**Thursday, February 12, 4PM Rm. 200**

Featured speaker:

**Danistan Saverimuthu** Canada25





# If I Were Dean of McGill Law School

by John Haffner (Law I)

If I were Dean of McGill Law School, I would be one week late in my submission to the Quid.

Some of my ideas overlap with Jason MacLean's submission from last week, but my aim here is not to score points for originality. On the contrary, I hope that agreement across student submissions will highlight a few key ideas that will help us take the Faculty to the next level.

In my first week as Dean I would focus on the BCL/LLB programme as follows:

## From 'Training for Hierarchy' to A Pluralist Model of Education

While McGill claims to distance itself from the 'training for hierarchy' model of legal education, in fact our students are forced to jump through the same hoops and in the same ways as other law schools. I would take six steps to close our rhetoric-reality gap and develop a more pluralist, humane and accessible model of legal education:

### 1) Down with Marks and Rankings

First, I would eliminate hierarchical rankings and low-balled marks and replace them with a simple system of three evaluations - fail, pass, distinction - similar to the Yale model (I have heard that Berkeley also has taken this approach). I would make sure that students who chose McGill clearly understood that this system was at the core of the Faculty culture, and I would be delighted as students shifted their energies from pragmatic calculation to broader intellectual discovery.

Incidentally, once marks and rankings were eliminated from the Faculty, the regulatory regime for (up to twelve) elective credits would become less prohibitive and more facilitative, since concerns about GPA manipulation would disappear.

### 2) Promote A More Diverse Curriculum

Second, to nurture and reward students' breadth of capabilities, I would issue a '50-50-50' collective aspiration to the faculty members: no more than 50% of the courses should include exams constituting 50% or more of the final mark. At a 50% threshold, there would still be enough timed fact-patterns to reassure the corporate sector that we are training students for the fast pace of

professional service, but we would also open up more space for other forms of deliberation. In our course readings we would go beyond legislative enactments and court rulings more often, and we would expand our scope for interdisciplinary inquiry.

### 3) Allow Advanced Placement

Third, I would waive the final twelve credits (93 to 105) for students with Master's degrees and/or mature students with extensive professional experience -for both philosophical and practical reasons.

Philosophically, McGill stands for the idea that the black letter law is far from the whole story: it is one of our foundational teachings that law is both formal and informal, both written and unwritten; norms are everywhere. So why is it that we will only give advanced placement (a full year) to students with formal legal training? Moreover the final twelve credits have in them no essential content for either degree - if they did, it would not be possible to complete them as unspecified electives. There is no good reason to require, say, a 32-year old with a Ph.D. in sociology and extensive professional experience (who might also happen to be a hockey goalie) to complete the same number of electives as an 18-year old who has come straight from CEGEP. As with Melbourne Law and Oxford Law, surely we have the capacity to distinguish like from unlike cases and give a little credit where credit is due!

On a practical level, waiving the additional twelve credits would send a clear, unequivocal message to mature and academically advanced students that they can finish the programme in three years. The elimination of arbitrary summer courses would increase the number of qualified and interested applicants, and ultimately the diversity of the student body. (One McGill professor told me that he or she would not be able to go to law school as a mature student because it is too demanding; but law school does not have to be like boot camp.)

### 4) Promote French Development

Fourth, I would introduce the Abramson Plan (thanks Bram): a four-year version of the BCL/LLB degree to attract students with lower-level French skills. The first year of the program would include one or two common

law courses and intensive French immersion; in the second year, students would shift into transsystemia. With such a transitional year, McGill would attract an even wider pool of applicants, generate additional revenues, and raise its profile considerably. Faculty members with weak French skills could also use the year for transitional purposes, allowing McGill to attract more academic talent.

I would also offer 'Active Bilingualism' French courses in the summer before first-year for passively bilingual students who wanted to participate more fully in the life of the Faculty. I would lobby the provincial and federal governments to support such an initiative and I would hire returning law students to teach in it: a virtuous circle of education and employment within our Faculty.

### 5) Connect Transsystemia and Globalization

Fifth, I would embrace global opportunities for McGill graduates. I would be troubled that a Martindale search yields no McGill Law graduates working, for example, in Australia. I would reach out to leading law firms and other institutions in far-flung jurisdictions so our graduates can look beyond local geographies and hiring rituals for their careers. To promote transsystemia's global potential, I would actively encourage students to take language electives (beyond 93 credits).

I would sponsor ambitious new law reform projects, involving both faculty and students, to develop the latent connections between transsystemic training and 'real world' legal reform.

### 6) Funding

Sixth and last, I would maintain our accessible funding approach. I would reach out to community stakeholders with expertise in fundraising, campaigning and endowments, and I would set ambitious targets for new campaigns.

I would start a 'preferred lender' relationship with a Canadian bank to provide easy access to funding for all admitted students of all nationalities, predicated on the employment and income rates of McGill graduates. A pooled insurance scheme ►



would protect the bank from any student who might default on future obligations; in exchange, the bank would guarantee funding to all admitted students regardless of their credit rating. Universal access to funding would enable less wealthy students to participate in the full life of the Faculty, including term exchanges, summer language courses and human rights internships, and thereby enrich our collective experience as a learning community.

### Conclusion

McGill Law is already a wonderful law school with great achievements, but too much student energy is kept bottled for no good reason. With a few bold moves, we could massively liberate the potential of our students, enrich our diversity, and make a much more meaningful contribution to the global community. ■

# Le doyenne, tu doyennes, il/elle doyenne, nous doyennons, vous doyennez, ils et elles doyennent. Doyennons!

by Sylvia Boss (Law I)

Un beau concept qu'inaugure Jason. Il me (et, soulignons-le, *nous*, donne) la liberté, vide de présomption, d'articuler d'autres éléments à un mandat dorénavant à élargir *in continuo* (N'ayez crainte, estimé Kasirer, nous reconnaissons que votre tâche a des limites – ce n'est ni un *burden* de plus qu'on vous propose, ni un signe de dissatisfaction. Voyons cela plutôt comme un ode à la coopération, voire à l'allègement de toutes les tâches — à *toutes!*).

Alors voilà : on m'a fait part d'un problème qui aura lieu à la Faculté de Droit cette semaine, un problème que j'estime sera d'ordre cosmique. C'est Cupidon qui m'a mis la puce à l'oreille. Il se résume ainsi : « Où envoyer, ou recevoir, bien sûr, des billets-doux ? ... ». Le problème, reconnaissons-le, est grand...

La solution, elle, pourtant, pourrait être toute petite! Il suffirait d'installer de petites boîtes par-dessus de nos casiers, de toutes petites boîtes de bois. Outre-Atlantique, en Angleterre (ah les maudits !), elles s'appellent communément *pigeonholes*. Par expérience personnelle, je puis vous assurer que quoiqu'on puisse dire des vertus, quoiqu'incontestées, du téléphone et du courriel, *they have nothing on these little darlings*. Rien de mieux pour « enlivener » la boîte — et ce, pas qu'une seule fois par an! Et, euh... bien sûr, améliorer la communication inter-étudiante (a.k.a., le doyennage). ■

NDLR: Conformément aux vœux de l'auteur, cet article n'a pas été révisé, mis à part le titre, qui était à l'origine dans les 2 langues.

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# Obiter Dicta: First, We Take Mont Royal, Then We Take B-

by Jason MacLean (Law I)

**M**emo and Factum week. Those of you not taking introductory criminal law missed out on a benign, self-described "tirade" delivered by Professor Healy, who regaled us with a carefully worded application of rational choice theory to legal methodology upon realizing that few of us had done the assigned reading. I can't wait to witness his reaction next Tuesday, as I expect the class attendance - let alone preparation - to decline noticeably, and most of all next Thursday. He may have to lecture to me alone! Not to worry, however, I will cover the class for the Quid.

Now, we could debate the relative merits of memoranda and facta writing as pedagogical instruments and learning experiences. Some like them - they are applied problems that, unlike exams, you actually have some time to think about. And moreover, the factual and legal situations created for the first-year memo are all very interesting. Others demur, however - they argue that the pedagogical pay-off is negligible, or that the arbitrarily constrained format of the exercise disallows creative critique and re-construction of "the law." We might further debate whether memo writing really conduces to trans-systemic (versus simply comparative) legal education. Interesting questions all.

Notwithstanding all that, Professor Healy makes a good point, one I would like to explore a bit further. Namely, the virtual shutting-down of regular life (both educational and social) for what is, basically, a relatively minor research and writing exercise...a memo (factum writers forgive me, I don't really know what your assignment entails, likely much more than our little memo). Let's be clear about this: It is a little memo. As I have written previously in these pages, it is something you can either take or leave.

Or is it? Healy's plea is for rational time allocation. The memo is worth (credit-wise) relatively little, so why the stress? Put it in its

proper perspective. That is unobjectionable enough. The whole exercise may be placed, however, in a yet broader perspective: Namely, within an arbitrary grading system. If the experience of the December exams holds true (some may wish to test this hypothesis), you are as likely to get a "good" grade as not if you put relatively little work into the exercise. Indeed, you may even get a higher grade than you expect if you put very little work into it. I have not been notified of any changes to the grading regime at the faculty (that is one memo I would like to get). So, mutatis mutandis, the same results that followed our exams should follow upon the submission of our memos.

That is one view. Another view, the one most of us are likely to test out, is that the memo is a test of our reformulated and redoubled legal learning strategies. Like good dogs, we should sit, and sit up straight, when told. Apparently many of us failed to do so satisfactorily in December, and so, like a

*Short of sporting a new pair of khakis, we can do what people who want to effect change have always done and will always do: Organize.*

giant, collective Fido, we were disciplined. Now is the time to show our benevolent masters that we can indeed do what we are told, and do so excellently. And, like baseball, the rules - now that we have figured them out - are clear and reasonably available. All that remains is to put in the work, abide the rules, and await the reward. Best of success to each of us.

Each, of course, is singular, and so wishing each of us good luck makes some sense given the system we toil under, and toil under willingly. I cannot, however, wish all of us the best of success, or at least I cannot do so sensibly, coherently. We cannot all succeed, at least not equally, and this is due more to structural reasons than invidious ones.

But we have been over this already. We will either decide to try to do something constructive about it or we won't. My money is still on the former, but we don't have forever. Then again, we each have a memo to write, and the clock is ticking. Opportunity costs are mounting. Like almost everything else, it is a question of values and priorities. Sadly the question is typically answered with a false consciousness of the context out of which it arises. But what can we do? Keep reading.

The irrationality Professor Healy pointed out is not restricted to grade and credit-oriented time allocation. It is, in my view, simply unseemly, unbecoming, and embarrassing. It makes plain, if you take but a moment to look around, to look up from your cases and doctrine, the disquieting extent to which we actively - if unwittingly - alienate our powers of self-definition and autonomy. Pavlovian snack, anyone, or has the bell not rung yet? Even the way we move

through time and space is arbitrarily constrained and directed.

Someone, for

instance, remarked that I was brave to have spent part of the morning at the gym while the memo was out. Next thing you know having lunch will be considered an act of courage.

So, what can we do? We are not likely to become Dean over night, and the odds are I won't be refurbishing my wardrobe at the Gap anytime soon. But, short of sporting a new pair of khakis, we can do what people who want to effect change have always done and will always do: Organize. Not only is it for a good cause (our education), but it will be educational, too. As Fuller suggests, jurists are architects of social structures. The august façade of McGill Law needs a face lift and a lot more work besides. If you want to help do something about it (and prevent me from writing still more dicta about legal education reform), write me at [jason.macleam@mail.mcgill.ca](mailto:jason.macleam@mail.mcgill.ca). You need not agree with everything - or, for that matter, with anything - I have written. The only criterion is care for the Faculty and our education and a willingness to work together. ■

**Submit to the Quid!**  
**[quid.law@mcgill.ca](mailto:quid.law@mcgill.ca)**



# Songlines and Hidden Assumptions

## About the Nature of the Law

by Martin Kavena (Alumnus I)

Nine months after leaving the doors of NCDH for the last time, I have undertaken to write perhaps one last article for the Quid. I don't have any more of the funny quotes from class that I sometimes submitted, but I thought it would be nice to tell current law students what, for me, were the most important two days I spent at McGill's law school: my first day, back in 1998, and my last day in 2003.

My first lecture was with a professor who contributed greatly to my law school experience as well as to my current post-law school career: Prof. Richard Janda. One of the first things he told us in his Foundations class on September 15, 1998, was to "be sensitive to hidden assumptions about the nature of the law". These words are as important as they sound. Perhaps I didn't appreciate their full importance back then, but they are a goldmine for arguments that one can make when writing about the law. My second lecture was with the only other professor I had at McGill law who would always know my name and say hello in the hallway: Prof. David Lametti. My first reading at law school for Civil Law Property I was about Aborigine Songlines in Australia. These are a good example of the need to be sensitive to the context within which our laws have developed (and to the underlying assumptions behind each legal

system).

The next few years at law school are a bit of a blur. I learned many details about different branches of the law, and while I will forget some of those things, the analytical skills we learned in each class are what help me every day at work. My last day of class in 2003 was a lecture in Intellectual Property. Interestingly, professor Lametti again reminded us of the Songlines, and talked about how a corporation had tried to copyright a song that was derived from traditional aboriginal songs - again we saw the clash between our law and a different conception of allocating rights (and indeed, a different conception of property). Unlike the many civil code provisions I learned at law school that will get amended, re-numbered and perhaps forgotten over the course of my life, theories about the nature of the law will remain the principal imagery that I will remember when I think about McGill law.

Indeed, I have chosen to work in a legal system in which I have little formal education - that of the Czech Republic. The work I do as a legal advisor in the national parliament includes legal analysis of draft bills and comparative studies of foreign laws and legal systems. It is no accident that one of my colleagues is another former McGill law student. Unlike many other law schools,

McGill law teaches its students to think about the law and to question the law. When a Deputy asks me to find a constitutional argument against the validity of a draft bill, I remember not only the Oakes test (which exists in the case-law of all European states), but also Coase and his economic analysis of the law. Even transaction costs can be used to argue against justifying a human rights infringement. When I am asked to provide a politician with an argument justifying the U.S. war in Iraq, not only do I think about Chapter VII of the UN Charter and Article 51, but also I wonder whether the Charter itself is not based on assumptions about international law and international relations that are rooted in the past.

I still have much to learn about the law, and the more I know, the more I feel uncertain about what I write. The first-year feeling of absolute certainty that came with reading a provision of the law is long gone - real law is not an individual provision written on paper, it is a way of thinking about relations between people, companies and states. Instead of just teaching us to blindly follow a set normative structure, McGill teaches its students to understand, question and perhaps one day to change it. This is what makes McGill law special and why I am proud to have attended. ■



**LALSA**  
**GENERAL MEETING**  
 18 FEBRUARY 2004  
 17H30 AT THOMSON HOUSE  
 (ROOM TBD)



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## HUMAN RIGHTS CAREER DAY - FEB 18TH, 2004

### Schedule of Events:

**10h00 - 12h00**

Information Booths (Atrium)

**12h30 - 14h00**

Panel: Human Rights Career Paths (Moot Court)

Six speakers will give short presentations (no more than 12 minutes) about their fields of practice. They will address such issues as how their career paths evolved, what practical skills are important in their work, and whether a transsystemic law degree would be helpful in their fields.

**14h30 - 16h30**

Networking Session (Atrium)

Students will have the opportunity to meet individually with practitioners. Students must sign up by February 9th to meet with up to 3 practitioners of their choice. Each interview session will last for 15 minutes, with a 5-minute transition period between each interview.

**17h00 - 20h00**

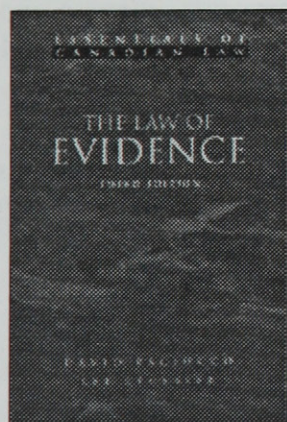
Panel: Street Youth and the Law (Moot Court)

This bilingual conference will bring together presenters from the faculty, community organizations and other professionals who deal with the challenges faced by marginalized youth. Organized by the Legal Outreach Portfolio of the Human Rights Working Group, this panel will address issues of the perceived discriminatory ticketing of marginalized youth, the difficult relationship between street youth and police agents, and the lack of government services for both preventing and solving street-related problems.

Sign-up sheets for NETWORKING are posted across from the basement computer lab.

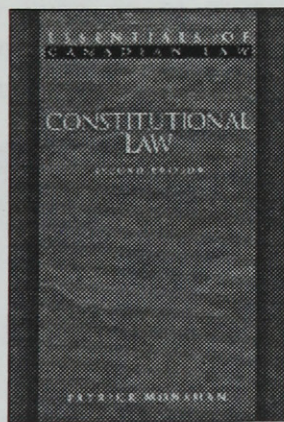
If you want to please help out as a **VOLUNTEER**, contact **Audrey.DeMarsico@mail.mcgill.ca** by **February 10th, 2004**. We will really need volunteers for setting-up, greeting, registration, tech support, and cleaning-up.

## ❧ ESSENTIALS OF CANADIAN LAW ❧



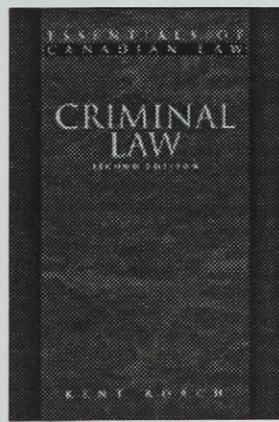
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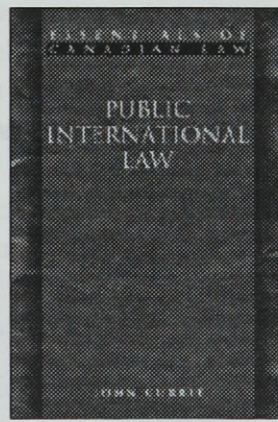
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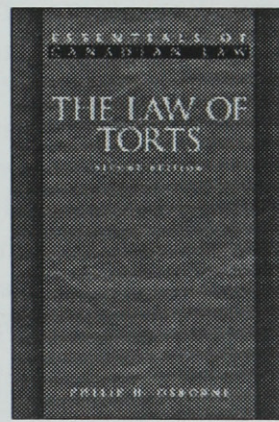
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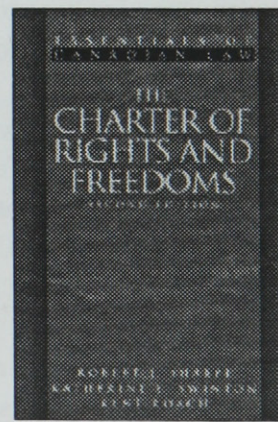
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# Profit...and Principles?

by Noah Billick (MBA/Law III)

Is there such a thing as socially responsible profit? Is running a moneymaking business reconcilable with having a social conscience? In other words, is business inherently bad? Well, if you ask an average Management student you'll get a resounding "No", but not because all Management students are hardcore free-market capitalists. A growing number of students at McGill's Faculty of Management reject the commonly held notion that profit necessarily results in exploitation. Through student-organized clubs and events such as Net Impact, Shaping Tomorrow's Organizational Practices (STOP) and this year's McGill Graduate Business Conference, some Management students are making a radical break with tradition and redefining their role as capitalists.

The fall of the Iron Curtain, China's creeping trade liberalism, and modern communication technologies have ushered in a new era of globalized business. The new reality of open markets has created the potential for exploitation and abuse, and there has been a general backlash against the perceived excesses of commercial activity. And while the jury is still out on whether or not globalization will ultimately be beneficial or detrimental for developing countries, the globalization trend is here to stay. With that in mind, I recently sat down and had a conversation with Nicole Marcelin of Net Impact and Alexandra Schwartz of the McGill Graduate Business Conference. What I wanted to know is: is profitable business compatible with sustainability and social responsibility?

**Noah Billick:** Is all profit immoral?

**Nicole Marcelin:** Not necessarily. If you want to share wealth with other people, you first have to generate wealth.

**Alexandra Schwartz:** The issue is really how you generate that profit.

**NM:** We believe that you can generate profit ethically. We are opposed to generating a marginal profit if it means sacrificing ethical principles.

**NB:** OK, but it's a basic underlying principle of both finance and business law that the purpose of a corporation is to maximize shareholder wealth. How do reconcile that with what you are advocating?

**AS:** If management doesn't act with the shareholder's best interests at heart, then why would shareholders want them managing the business? We can't sacrifice profitability at the altar of social responsibility, or there will be a massive backlash against the movement.

**NB:** But how can we balance the two ideas - profitability and social responsibility?

**NM:** Well, obviously there is a long way to go, in terms of changing fundamental assumptions about what are the shareholders' "best interests". But one of my favourite examples is Herman Miller, the office furniture manufacturer. It's a public company, widely held, so they are as accountable to "traditional" shareholder interests as any company could be. They designed their newest factory so that it was not only cost-effective and streamlined, but also so that employees found it a pleasant and enjoyable place to work. It was more expensive, but employee turnover is way down, and productivity is way up.

**NB:** But critics would respond by saying that the only reason Herman Miller designed an "employee-friendly" factory was because it was in the company's economic interest to do so.

**AS:** Well, that's true. But we have to start somewhere. Shareholders do expect to receive a return on their investment, and they

invest on that basis. If we completely disregard that expectation by eliminating every single negative externality created as a result of a company's doing business, then we wouldn't have a company, and we wouldn't have shareholders willing to provide capital. The point is to rethink the idea that maximizing a shareholder's best interests necessitates disregarding all other stakeholders completely.

**NB:** Isn't that kind of idealistic? If we can't compel shareholders and managers to make socially responsible business decisions, then why would they?

**NM:** Look at Nike. You probably heard that Nike used sweatshops. Well, when the scandal was broken by the New York Times, Nike's stock price was around \$100 US. After the revelations it took about five years for Nike's price to recover fully. So there may be bona fide business reasons for companies to be socially responsible. As consumers become more aware of the negative effects of some kinds of corporate behaviour, companies may act more responsibly because it's just good business.

**NB:** Ah, there's that "enlightened self-interest" again.

**NM:** Ok, but so what? The important thing is that the end result is that stakeholders are taken into consideration. Isn't that the point? The motivation should be a secondary issue.

**AS:** It's great to be warm-and-fuzzy, but ultimately we've got to give businesses a good reason to be good corporate citizens, and warm-and-fuzzy alone just isn't enough. You've got to be pragmatic.

The McGill Graduate Business Conference will be held this March 4th, at the Canadian Centre for Architecture. Each speaker has, in some way, married enterprise with social responsibility and sustainability. For more information, click on [www.mgbc.net](http://www.mgbc.net). ■



# THE LEADERSHIP CHALLENGE ARE YOU READY?

THE **11TH** ANNUAL  
MCGILL GRADUATE BUSINESS CONFERENCE  
MARCH 4, 2004

**THURSDAY MARCH 4**

**8.30 am - 5.00 pm**

**The Canadian Center  
for Architecture**

1920 Baile St, Montreal

Quebec, H3H2S

[www.mgbc.net](http://www.mgbc.net)

**Mark Tewksbury**

Olympic Gold Medalist, Barcelona '92  
Co-President of Rendez-Vous Montreal 2006

**William McDonough**

Principal and Founder, William McDonough + Partners  
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Alliance Atlantis Communications Inc.

**Paul-Andre Savoie**

CEO  
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**Parker Mitchell**

President and Chief Executive Officer  
Engineers Without Borders (Canada)

And more...





# Force Majeure Rebounds for Victory

by Michael Hazan (Law II)

After an 11-3 lopsided loss in their opening game of the season, Law's Ball-Hockey Squad, Force Majeure, bounced back with a 4-3 victory Tuesday night. Tim "Terminator" Buckland's two-goal performance led the team to victory over Freedom 35 at the Tomlinson Fieldhouse.

Buckland jumped into the rush, beating the helpless goaltender on the blocker side for the game-winning goal. "Listen, coming from Alberta, I grew up watching Paul Coffey and the Oilers, so I wasn't going to miss", said Buckland after the game. In his last semester before graduating, Buckland hopes that his conditioning stint in France last semester will help lead the team to its first championship. Buckland added that he learned a lot from Napoleon's European conquest and that he would try and avoid defeat at all costs.

Goaltender Ayman Daher was sound in net, especially in the final minute where Freedom 35 pressed for the tying goal. "My cousins flew in all the way from Turkey for this game, so I wasn't going to let them down" said Daher while signing autographs for his jet-lagged fans.

Force Majeure came out strong in the second period when Sam "I sleep in on Sundays" Adkins scored his first goal of the season followed by Buckland's pair. Force Majeure faces a two-week break in the schedule that will no doubt help their beleaguered second-year players face their toughest opponent of the year, the dreaded factum. More importantly, it also allows time for defenseman Jason Crelinsten to heal from a mysterious wound he suffered at the Law Games in Halifax. ■

## ATTENTION ALL STUDENTS! THE CPO NEWSLETTER HAS MOVED TO THE WEB!

The Career Placement Office's weekly newsletter will no longer be sent out by e-mail, and will no longer be printed in the Quid. All News Postings, Job Listings and Events are now centralized on the CPO's website. For access, students should go to [www.law.mcgill.ca/cpo](http://www.law.mcgill.ca/cpo), and click on CareerLink on the left-side menu.

CareerLink is organized into four primary areas:

Homepage – lists Student Alerts (brief, high priority messages), the most recent News Items and upcoming events.

News Centre – Contains postings with important information formerly included in the Newsletter.

JobBank – Contains all Job Listings received and posted by the CPO.

Calendar – Contains listings and details on upcoming CPO events.

**Students are responsible for checking CareerLink listings on a regular (weekly) basis! With very few exceptions, notices will no longer be sent out by e-mail!**

# Vermont Law School's Environmental Policy

by Molly Mimier (Exchange)

As an exchange student from Vermont Law School in the United States, I am often asked how the law school experience at my home institution differs from what I have experienced thus far at McGill's Faculty of Law. Last weekend I joined several friendly "Environmental Law McGill" (ELM) students on a fun and restful retreat to Mont-St-Hilaire. In addition to these more general questions, I was also asked about Vermont Law School's policies in regards to student conservation. I suppose that they were particularly curious because just as McGill is known for its programs in International and Human Rights law, Vermont Law School is known for its program in Environmental law. I do not yet know enough about McGill's policies for direct comparison, so for this brief article I thought that I would just highlight some ways that Vermont Law School students are trying to make their daily habits as green as possible.

- There are recycle boxes everywhere, including by the student mailboxes, by all printers, and in the student socializing and eating areas. There is recycling available for paper, cardboard, glass, plastic, aluminum, tin, and batteries. Most landlords in the town also collect recycling, or students may take items to the recycle center themselves.

- Students are always encouraged, and sometimes even required to hand in assignments that have been printed on both sides. This simple act helps to save money for the school as well as helps the environment.

- Students have a limited amount of free pages to print each term. This way, when students are trying to do research for their papers, they have to think about the most efficient way to collect and print the relevant articles.

- All paper that has been put in the recycle bin with only one-side printed on is used ►



to make posters for events or cut into quarters and turned into scratch pads for the offices.

- At all catered events, students are requested to bring their own Tupperware, silverware and cups to eat and drink from. If they bring their own, then they may eat for free. If they have forgotten, they must purchase the Tupperware from the Environmental Law Society at cost before eating.

- The National Lawyer's Guild is currently holding seminars on socially responsible investing and is pressuring the school to divest some of its assets and to reinvest them

in environmentally and socially responsible organizations instead. This is helping to make the school "put its money where its mouth is".

- Used textbooks and course packs are shipped to developing countries that can use them in their newly created law libraries. For instance, this past term books were shipped to universities in both Romania and India.

- All recently built buildings at Vermont Law School were constructed with environmental conservation in mind. They have lights on timers, faucets that turn off automatically, efficient heating and ventilation systems, and

even composting toilets!

These are just a few of the ways that Vermont Law School students are trying to keep their environment green. Please support ELM and other student groups who are trying to do the same for McGill's campus!

It is a pleasure to be studying with you! ■



## WADA coming to our Faculty end of March 2004

Presentation and discussion will cover:

- Legal implications of the World Anti-Doping Code (Code) and its International Standards (IS)
- Athletes' Rights
- Testing and Therapeutic Use Exemptions (TUE)
- Sport Arbitration (TAS)

For more information on WADA, the Code, IS and TUE: [www.wada-ama.org](http://www.wada-ama.org)

You can also contact: Viviana Iturriaga Espinoza at [miturr@po-box.mcgill.ca](mailto:miturr@po-box.mcgill.ca)

**Submit to the Quid!**  
**[quid.law@mcgill.ca](mailto:quid.law@mcgill.ca)**  
**Deadline: Thursday 5pm**



- PAID ADVERTISEMENT -

# From "Law Student" to "Lawyer"

by Sophie Lamonde (Alumnus II, for Stikeman Elliott)

29 mars 1999, 7:08 a.m. (!)

*"C'est avec fierté et conviction que nous vous offrons, au nom de Stikeman Elliott, de vous joindre à notre équipe à titre d'avocate suivant votre stage prévu avec nous en l'an 2002 et votre admission au Barreau. Comme vous le savez, cette offre s'accompagne d'une offre d'emploi à titre d'étudiante dès cet été."*

Une fois cette offre acceptée, j'étais ravie et en même temps prise de vertige: *"Dans quoi me suis-je embarquée?"*

My name is Sophie Lamonde. I studied at the McGill University's Faculty of Law from 1997 to 2001 and was admitted to the Quebec Bar in 2002. I am currently practicing corporate law at the Montreal office of Stikeman Elliott LLP. The following is the story of yet another law student who wanted to become a lawyer, this is my story.

I started working as a student after my second year of university. I chose to start my "career" with the litigation practice group. After all, I went to law school to become a litigator!

Mon premier été passé au bureau fut mémorable. Mon travail était varié et stimulant. Je pouvais enfin appliquer les connaissances théoriques acquises à l'université en milieu professionnel et surtout, rencontrer mes futurs collègues. Certains étaient étudiants comme moi, d'autres stagiaires ou avocats; tous partageaient (et partagent toujours!) ce même souci pour l'excellence et ce même dynamisme contagieux. Les responsabilités qui m'étaient confiées étaient considérables, mais je me sentais épaulée.

I was not very keen on spending my second summer working in the corporate department. I REALLY wanted to do litigation! Business law was not what I had expected. However, at that point, I was still dreaming of pleadings and proceedings! Then came the third summer...

In 2002, I was given the opportunity to work in our London office for a month and a half and then, when I came back to Montreal, was seconded to BCE, one of the firm's clients. During that summer, I actively participated in an international deal involving lawyers from all over Europe, assisted colleagues in resolving clients' queries regarding Canadian securities law and acquired hands-on knowledge of clients' expectations of their attorneys.

Ainsi, après trois étés exceptionnels passés chez Stikeman Elliott, je me suis retrouvée devant ce grand dilemme: litige ou

corpo? Six mois de stage et deux rotations plus tard, j'ai pris LA décision et ai annoncé mon intention de joindre le groupe de droit des affaires. Aujourd'hui, je suis avocate et pourtant, toujours étudiante dans l'âme... Chaque journée apporte son lot de nouveaux défis à relever, de nouvelles connaissances à acquérir. Ma pratique répond à mes attentes: elle est diversifiée, internationale à souhait et m'amène constamment à travailler en équipe.

I know how important the choice of a law firm is to a law student and I hope you will take the opportunity to meet and talk with a lot of people during the unavoidable "course au stage". Be open-minded and ultimately, follow your heart, it sounds cheesy, but that is the best advice a former law student can give you. Good luck! Bonne chance! ■

- Sophie Lamonde, B.C.L, L.L.B 2001



- Cet article a été sponsorisé par Stikeman Elliott -



# **The Criminalization of Dissent:**

## **Activism and Lawyering**

*A co-presentation of the Radical Law Collective and the Human Rights Working Group*

With  
**Jaggi Singh**  
and  
**Pascal Lescarbeau**

New Chancellor Day Hall,  
McGill University Faculty of Law  
Room 102  
February 16th, 5:30 pm

The McGill Jewish Law Students' Association presents

## **DISPUTED CONSTRUCTION AND POPULATION EXPANSION IN JERUSALEM: LEGAL AND POLITICAL IMPLICATIONS**

A talk by Justus Reid Weiner,

Scholar in Residence at the  
Jerusalem Centre For Public  
Affairs

*Tuesday, Feb 10, 2004  
5:30 PM, 3644 Peel St.,  
Moot Court*





THANK GOD IT WAS JANET,  
& NOT HER BROTHER...

